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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Eleventh session

SUMMARY RECORD OF THE 56th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 9 December 1994, at 10 a.m.

Chairperson: Mr. ALSTON

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The meeting was called to order at 10.25 a.m.

ADOPTION OF THE REPORT (agenda item 8) (continued)

1. The CHAIRPERSON, referring to general matters to be taken up in the Committee's report, asked the Committee whether it would authorize him to draft a couple of sentences reaffirming the urgent need to complete the documentation and resource facilities for the Centre for Human Rights, proposing the allocation of a separate office for use by members of the Committee and other human rights treaty bodies, and emphasizing the need to make speedier progress on computerization and to explore more creative approaches for linking the Centre for Human Rights with the outside world.

2. It was so agreed.

3. The CHAIRPERSON read out the following proposed text for the section on advisory services:

"Advisory Services

The Committee expresses its appreciation to the Centre for Human Rights for the paper which it prepared at the Committee's request detailing 'Activities undertaken so far within the Advisory Services Programme and proposals for the type of assistance that can be envisaged for the realization of economic, social and cultural rights' (E/C.12/1994/WP.9). It also greatly appreciates the frank and constructive discussion it was able to have with a representative of the Centre.

The Committee considers that while economic, social and cultural rights have been included in a number of the activities undertaken within the Advisory Services Programme, it is not possible to identify any single initiative which has focused exclusively or in any significant depth on these rights. It wishes to emphasize that the consideration of issues relating to economic, social and cultural rights within a genuine human rights framework requires much more than a traditional analysis of the factual situation relating, for example, to nutrition, literacy or health care. What is required is a clear emphasis upon the obligations contained in the Covenant on Economic, Social and Cultural Rights, the identification of appropriate benchmarks in the State concerned for the realization of those rights and the identification of appropriate means of monitoring and vindication of the rights in question. In the absence of these elements, an analysis of what purports to be the economic and social rights situation of a country is highly unlikely to add anything to the work carried out by development agencies such as UNDP and the World Bank, whose work is not based upon a human rights framework, as the Advisory Services Programme must be.

The Committee therefore calls upon the Centre for Human Rights to identify specific activities which it might undertake in an endeavour to give appropriate attention to economic, social and cultural rights in the Advisory Services Programme in the future.

The Committee notes that, in the continuing absence of any expert in this area within the Centre, the likelihood of effective specialist programmes being developed is not great."

4. Mrs. IDER drew attention to the need to distribute information on the services available under the Advisory Services Programme, since many States parties were unaware of them. The inclusion of a sentence to that effect would be appreciated.

5. The CHAIRPERSON suggested the insertion, after the first sentence in the third paragraph, of a sentence reading: "Once this has been done, the Centre is requested to inform States parties as to the services which might be provided in that field."

6. Mr. TEXIER drew attention to the need to stress the priority of activities at the national level.

7. The CHAIRPERSON suggested that a further sentence should be added stating: "In terms of training and related activities, the Committee reiterates its view that these are usually best undertaken at the national level rather than on a regional basis."

8. Mr. GRISSA observed that for a number of small countries it might be too expensive to organize activities on a national basis. Organization by groups of countries would be more economical.

9. The CHAIRPERSON suggested that the words "on a national or subregional basis" should be used.

10. Mr. TEXIER said that, having participated in a number of training seminars, he had no assurance that participants held posts of a sufficient level of responsibility to ensure follow-up. The objective was to make the training operational.

11. Mrs. JIMENEZ BUTRAGUEÑO suggested that a reference should be made to the selection of suitable participants.

12. The CHAIRPERSON suggested the addition of a sentence reading: "The Committee also emphasizes the importance of ensuring the participation of individuals who are best placed to make effective use of the training provided."

13. The text, as amended, was adopted.

14. The CHAIRPERSON, speaking on chapter III, where an overview was provided of the working methods of the Committee, proposed the inclusion of a reference, firstly, to reflect the Committee's request to the Secretariat to make written submissions presented by NGOs on the first Monday of each session available to the delegations of States parties as soon as possible and, secondly, to underscore the importance that the Committee attached to the receipt of detailed replies in writing well in advance of each session so

that they could serve as a basis for further dialogue. He said that the new version of chapter III would otherwise remain unchanged, except for a reference to the general comment on disabilities.

15. It was so decided.

16. The CHAIRPERSON, in reply to Mr. SIMMA, said that he would reiterate a request in the report that the Committee's report should be processed as quickly as possible and not be delayed until the next session of the Economic and Social Council. The Secretariat might inform New York that the Committee regarded the report as vital for States parties.

ORGANIZATION OF WORK (agenda item 2) (continued)

Topic for a day of general discussion at the twelfth session

17. The CHAIRPERSON noted that no precise topic had yet been selected for the day of general discussion at the next session. It had been generally agreed that the Committee should review the matters discussed at the previous session, particularly for the benefit of new members. He suggested that the topic should be the interpretation and practical application of obligations incumbent upon States parties to the Covenant.

18. Mr. SIMMA asked how that would be differentiated from General Comment No. 3.

19. The CHAIRPERSON replied that there would be an overlap. He had not mentioned General Comment No. 3 because the Committee would not want to give the impression that it intended to revise it.

20. Mr. GRISSA recalled that at a previous meeting he had drawn attention to the economic implications of the Covenant. Some 45 States parties were classified as "least developed" countries, and it was difficult to expect them to fulfil all their obligations under the Covenant - a situation which created a dilemma for the Committee. A day of discussion should be devoted to that problem.

21. The CHAIRPERSON said that the subject was highly controversial. The topic which he himself had suggested was formulated in such a way that it left it open for the Committee to pursue its discussion of that subject. He therefore suggested that the Committee should accept his proposed formulation on the understanding that the economic issues mentioned by Mr. Grissa would be covered.

22. It was so decided.

Draft optional protocol (E/C.12/1994/12)

23. The CHAIRPERSON said that he had not had time to revise his report (E/C.12/1994/12) so that it reflected the discussion in the Committee, with the elimination of certain specific formulations. As far as further treatment of the matter was concerned, one alternative mentioned had been that responsibility for the text should be entrusted to him and that the text should then be transmitted to the Commission on Human Rights with an

indication that it had not been reviewed by the Committee as a whole; a second alternative had been to try to find some way of having the text reviewed by the Committee, but that was not at all practical because of the time factor; a third alternative was simply to send a brief note to the Commission on Human Rights stating that the Committee was reviewing the matter, that it had made an overall analysis of it at its eleventh session, and that it planned to continue to do so at its twelfth session and would inform the Commission accordingly.

24. Mr. GRISSA said that it was his understanding that the Committee had agreed that its Chairperson would revise his paper. Ms. Taya had submitted an alternative document, but it related to many matters that were not really the responsibility of the Committee. He suggested that the Chairperson should prepare a paper and submit it in the name of the Committee in time for the next session of the Commission on Human Rights.

25. Mr. ALVAREZ VITA said that, since the Committee had not yet reached a consensus on the matter, he was in favour of the third alternative.

26. Mrs. JIMENEZ BUTRAGUEÑO said that she, too, considered the third alternative to be the best. A large part of Ms. Taya's paper had nothing to do with the draft optional protocol.

27. The CHAIRPERSON pointed out that Ms. Taya's proposals were quite separate.

28. Mr. KOUZNETSOV recalled that during the discussion at an earlier meeting he had already indicated his preference for the third alternative.

29. Mr. TEXIER supported Mr. Grissa's position. The Committee should not postpone the issue, since 18 months had already elapsed since it had been requested by the World Conference on Human Rights to take the matter up. The Chairperson had all the background information needed for him to draw up an interim report which, while excluding draft articles, would sum up the areas of agreement and disagreement within the Committee. States parties would thus have evidence that the Committee was working on the matter. It was true that the Committee had not been urged by any State to speed up the process, but it had a duty to perform and must make progress. The Commission on Human Rights could certainly be informed that the Committee had had a general discussion on the matter.

30. Mr. WIMER ZAMBRANO said that he thought the third alternative was the best one, as the Committee had not yet agreed on the substantive aspects of the document. In order to make progress on the draft optional protocol, the Committee needed to agree on certain basic principles. Rather than drafting yet another document, the Chairperson should take note in the existing document of the Committee's positions on the draft text. The document should also take into account some of the concerns expressed by Mr. Grissa, other Committee members and the American Association of Jurists that the Committee had not even classified the rights covered by the Covenant. That was absolutely essential for an optional protocol. Without such a classification, many States parties would not be interested in a document which lacked

definitions and on which even the drafting committee could not agree. The Committee should wait until its next session to give it time to reflect on what was still needed in the draft optional protocol.

31. Mr. CEAUSU said he agreed with Mr. Texier on choosing the second alternative. Since no consensus had yet been reached on the articles of the draft optional protocol, the document should simply summarize the opinions expressed by Committee members and be presented as a provisional document by the Chairperson to the Economic and Social Council, noting that the Committee would continue its consideration of the text at its next session.

32. Mr. SIMMA said that he agreed with Mr. Texier, Mr. Ceausu and Mr. Grissa that something more than an information note should be submitted to the Commission.

33. After a discussion in which Mr. ALVAREZ VITA, Mrs. JIMENEZ BUTRAGUEÑO, Mr. WIMER ZAMBRANO and Mr. TEXIER took part, the CHAIRPERSON noted that while the first alternative was clearly the strongest in terms of committing the Committee to a decision, it would be better to take a more cautious approach, namely, the third alternative. Accordingly, he could send a one-page note to the Commission, indicating the importance the Committee attached to its discussion of the issue, describing how it had proceeded, and indicating the document numbers of both the summary of the discussion and of the summary records, which would all be available to the Commission.

34. Mr. ALVAREZ VITA said that the summary records did not fully reflect the Committee's debate on all points.

35. The CHAIRPERSON said that the Commission would be familiar with the unavoidable shortcomings of such records, but that they were the only records the Committee had of its session.

36. If there was no objection, he would take it that the Committee wished to proceed in the way he had suggested.

37. It was so decided.

Production of video on the work of the Committee

38. The CHAIRPERSON suggested that the Committee should request a video to be made of its work which drew on the videotape made of the day of general discussion on human rights education as well as on the Committee's previous session.

39. Mr. GRISSA inquired whether such a video had been produced by other bodies.

40. The CHAIRPERSON said that a video would come within the publicity activities undertaken by the Department of Public Information (DPI) and would not represent anything out of the ordinary but would, rather, assist in conveying a message about the Committee's work to a wider public.

41. Mr. SIMMA said it was unfortunate that the video had not been made during the Committee's debate on Hong Kong.

42. The CHAIRPERSON said that in making a video of the Committee's work, DPI could make use of any available footage, including, for example, that shot by NGOs from Hong Kong.

43. If there was no objection, he would take it that the Committee agreed to request the production of such a video.

44. It was so decided.

Expert mission to Panama (continued)

45. The CHAIRPERSON asked if the general guidelines already adopted by the Committee for the forthcoming expert mission to Panama provided that Mr. Texier would be the Rapporteur of the mission.

46. Mr. TEXIER, supported by Mr. WIMER ZAMBRANO, replied in the affirmative. He emphasized that the mission's agenda must be flexible, as one week was a short period of time in which to carry out its mandate.

47. He then proposed that the following four paragraphs should be added to the general guidelines adopted by the Committee on 8 December:

> "The mission should meet the government authorities responsible for housing matters or responsible for political decisions in that area. It should gather opinions from the institutions which might intervene in any capacity on housing problems, including judicial authorities; national, regional or local administrations; as well as representatives of civil society, such as non-governmental organizations, the Church, universities, etc., and any other qualified person or institution.
>
> "It is equally important that the mission should be able to conduct on-site visits, including to zones where urban renewal projects are planned, where evictions have occurred and where housing conditions are not satisfactory.
>
> "The mission, which has the dual objective of gaining a clearer understanding of the housing situation in the country and of pursuing a dialogue with the Government and civil society in view of the best possible implementation of the provisions of the Covenant concerning housing, should meet separately with the Government, representatives of civil society and persons affected by housing-related measures, to ensure a free and open dialogue.
>
> "A precise timetable should be drawn up prior to the mission's arrival in collaboration with the Government of Panama, the Centre for Human Rights, the two experts and, possibly, the Committee Chairperson as well as representative organs of civil society."

48. That formulation was intended to be general and provide a sense of the purpose of the mission and the parties with whom it intended to meet. However, more specific information could be added.

49. Mr. WIMER ZAMBRANO said that the phrase 'and any other qualified person or institution" was weak as it allowed for some alternatives. He would prefer a stronger formulation, such as "the authorities responsible for".

50. Mr. TEXIER agreed, suggesting that the phrase "any other qualified person or institution" could be deleted. Instead, the text would simply refer to the fact that the mission should meet with government bodies responsible for housing matters. The reference to the Committee Chairperson being included in consultations on the agenda for the mission might simply mean holding consultations with the Bureau. The Chairperson would be contacted only if there were a problem of interpretation of the terms of reference or if the experts were prevented access to particular areas.

51. The CHAIRPERSON said that he took it that the Committee wished the paragraphs read out by Mr. Texier, as amended, to be added to the Committee's earlier statement on Panama.

52. It was so decided.

Post-sessional working group

53. The CHAIRPERSON, noting that the Committee had agreed to convene a post-sessional working group from 22 to 26 May 1995, called upon members to hold informal consultations at the end of the meeting in order to decide on its make-up.

Draft decision for the Economic and Social Council on the payment of an honorarium

54. The CHAIRPERSON announced that the draft decision for the Economic and Social Council had been completed and read as follows:

> "The Economic and Social Council, recalling its decision 1994/..., in which it endorsed the recommendation of the Committee on Economic, Social and Cultural Rights that each of its members be paid an honorarium equivalent to that payable to the members of other relevant treaty bodies, notes that no action has yet been taken on the matter by the General Assembly. The Council urges the General Assembly to give speedy attention to this matter."

55. The draft decision was approved.

Status of draft general comments

56. Mr. ALVAREZ VITA inquired whether Mrs. Jimenez Butragueño's draft general comment on the elderly would be discussed at the current or at the next session and what the status was of the text on persons with disabilities.

57. The CHAIRPERSON, replying to the questions of the previous speaker, said that the Committee had already adopted the general comment on persons with disabilities. With regard to the rights of the elderly, the draft general comment, which had undergone considerable revision, would be ready for early adoption at the next session; that would be reflected in the report.

58. Mrs. JIMENEZ BUTRAGUEÑO said that she could convey the text to the Secretariat before her departure; she would have to send the annexes from Madrid at a later date.

Relations with other treaty bodies

59. Mrs. JIMENEZ BUTRAGUEÑO, referring to the need to maintain relations with other treaty bodies, offered to report to the Committee at its next session on the work of the Committee on the Elimination of Discrimination against Women and the Committee against Torture. In her view, it would be useful if the Committee could hear such reports on the first morning of each session.

60. The CHAIRPERSON said that the Committee accepted Mrs. Jimenez Butragueño's offer to report on the work of the Committee on the Elimination of Discrimination against Women and the Committee against Torture. He supported her proposal to hear such reports on the first morning of the session and would schedule her report accordingly.

CLOSURE OF THE SESSION

61. After an exchange of courtesies, the CHAIRPERSON declared the session closed.

The meeting rose at 12 noon.